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John F. Kippley

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# Catholic Sexual Ethics: The Continuing Debate On Birth Control

by John F. Kippley

*Mr. Kippley teaches at the College of Mt. St. Joseph on the Ohio. He specializes in the field of morals in the theology department. His paper asks for a reconsideration of the dissent from Humanae Vitae and also questions the lines of reasoning for the acceptance of contraception.*

## Introduction:

### The Present Situation

The fifth anniversary of the promulgation of *Humanae Vitae* has passed without tremendous fanfare, but the little notice that was taken may be significant. Father Richard McCormick, S.J. called attention to the silence since *Humanae Vitae* on the part of the local magisterium.<sup>1</sup> Suggesting that this silence and the statistics of massive dissent are themselves new theological data, he called for a Blue Ribbon Commission to re-study the matter; his hope was clearly that such a Commission would come up with a revision of *Humanae Vitae* that would state a general preferred practice but leave the door open for contraception where the couple felt a conflict of values. Concerning this silence, Ms. Karen Hurley, a married woman with an advanced degree in theology, recommended that it be halted and that the challenge of *Humanae Vitae* be once again presented.<sup>2</sup>

If the voice of support for this doctrine of marital non-contraception has been largely unheard, the voice of dissent has certainly filled the vacuum at every level. In most cities and towns it is common knowledge that there are priests who will aid the decision to practice contraception. Perhaps it is less commonly known that many of our high school students are taught to dissent from *Humanae Vitae* and are thus oriented towards contraception practically from the onset of puberty. A college freshman recently told me that when she was in the ninth grade (1969-70), the priest teaching religion in her Catholic high school had effectively taught her class to dissent. Here's what the Pope said, but here's what all the theologians say." Thus, as she put it, all of her friends who were now marrying were going on the Pill without the slightest thought that this was contrary to the official moral teaching of the Church. She declined to name the high school because, as she put it, "It doesn't make much difference. My friends from other Catholic schools got the same message."

Nor is the state of the question limited to contraception. Recurrent surveys indicate that there has been a similar dissent from the Church's official teaching on abortion and non-marital coitus. For example,

McCready and Greeley have reported that among Catholics under 30, 36% saw premarital intercourse as not wrong at all, and 35% saw it as wrong only sometimes.<sup>3</sup> A Gallup poll a year later reported that 45% of the Roman Catholics interviewed "categorized pre-marital sex as 'not wrong'". The figures for Protestants was 38%. The 1969 figures were 16% for Catholics and 20% for Protestants.<sup>4</sup>

With regard to abortion, McCready and Greeley reported, among other things, that 74% of the Catholics under 30 would allow abortion if there was a strong chance of a serious birth defect in the baby. That is an interesting parallel with the finding of Bumpass-Westhoff that 75% of Catholics under 30 were using birth control methods disapproved by the Church.<sup>5</sup> I submit that it is almost unimaginable that a Catholic not using contraception on moral grounds could then approve of killing nascent life. Thus, if our professional sociologists' surveys are valid and reliable, I submit that we have a most visible indication of the real link between contraception and abortion no matter how different these realities are. The above surveys would indicate a correlation of close to 100% between the acceptance of contraception and the acceptance of quality-of-life abortion among the people surveyed.

This, then, is the situation as we head into the second five year period post-*Humanae Vitae*. On the one hand, a challenge has been thrown to our bishops to validate

the dissenting theory and practice; on the other hand the bishops are faced with repeated evidences of crisis and decline within the Church in the decade that has seen a majority of Catholics accept the contraceptive way of life. They can hardly ignore the above mentioned relationships between dissent from the doctrine of marital non-contraception and the dissent in the matters of abortion and overall sexual doctrine.

The situation is considerably changed from that of 1968 in that dissent and the dissenters have been riding high in the saddle in practically every area of Catholic life for the past five years and for much of the past decade. As such, they have established a track record, and, in a day when consequentialism is much in vogue among moralists, this is certainly strong theological data. Thus, whether one considers the relative silence by the magisterium and the majority acceptance of contraception by some as the point of emphasis in calling for a reconsideration of *Humanae Vitae* or whether one thinks that dissent vis-a-vis abortion and overall sexuality necessitates a hard look at the acceptance of dissent and contraception, there are three outstanding facts. The debate about contraception should not be allowed to die, some further authoritative teaching is called for and the relative silence should not continue for another five years.

If it is valid to call for a reconsideration of *Humanae Vitae*, then it is equally valid to call for a reconsideration of the dissent. To

that end, I propose in this article to provide 1) a relatively brief and selective critique of the document of dissent from the *Catholic Hospital Directives* and 2) an analysis of the major lines of reasoning for the acceptance of contraception. In providing such analyses, I realize that I speak from a minority position and that thus a majority of my potential readership has already taken an opposite position. The difficulty is compounded because in this task I am opposing the rationale of those who are rightly called "eminent scholars."<sup>6</sup>

By way of ameliorating this initial handicap, I would ask consideration of two factors. First of all, the document of dissent from the *Hospital Directives* was to be expected. After all, if a large number of theologians have taken a stance against *Humanae Vitae* and then are confronted by *Directives* which put *Humanae Vitae* into practice, it is predictable that a certain number of theologians would issue a statement of dissent from such *Directives*. It is also quite understandable why they should choose to cooperate as a study commission of the Catholic Theological Society of America, for such a platform assures a promulgation of their views to some of the most influential people in theology today.

Secondly, however, the Commission members called attention to the fact that "the obvious theoretical limit to legitimate dissent is the truth itself as expressed in the reasons for the dissent from a particular teaching."<sup>7</sup> Thus they ask us not to accept their dissent stance

on the basis of faith in the scholarship but rather on the basis of the reasons they put forth. Thus they would be the first to invite a rational dissent from their own position, and this is what I hope to provide.

In the first section of what follows I shall attempt to show that dissent from the *Directives* is not justified on the very grounds that are put forth by the dissenters in the CTSA Commission Report; in the second section I shall attempt to uphold a similar position with regard to the dissent from *Humanae Vitae*.

### I. A Selective Critique of the CTSA Commission Report

It is not feasible to offer commentary on the entire CTSA Commission Report (hereafter, the *Report*) which is about 6000 words in length. Thus my comments are limited to 1) three rather general reasons that form a framework for dissent, and 2) the four specific conditions listed as justifying non-compliance with the *Directives*.

A. The ecumenical dimension of Catholic sexual ethics.

Upon the issuance of *Humanae Vitae* it was rather widely stated that the encyclical was definitely a snag in the ecumenical dialogue. This theme has understandably been picked up in the dissent from the *Directives*: no one can deny that refusal by a Catholic hospital to allow certain actions that neither a Protestant patient nor doctor find objectionable may very well lead to negative feelings on their part toward the Catholic church. (On the other hand, they might ad-

mire a stand on principle, particularly in the aftermath of the Watergate principals and principles.) Thus the *Report* noted that "the Decree on Ecumenism affirms the ecclesial reality of other churches and the possibility of learning from the theological and ethical insights developed within other Christian communities." (para. 15)

Within the context of the *Report* and the overall debate, this has the effect of saying two things: 1) perhaps the Protestants are right and the Catholic magisterium is wrong about the sexual matters under debate; 2) at the least, we Catholics shouldn't stand in the way of letting people of good faith use Catholic hospital facilities as they see fit.

The problem with such a stance is that it provides formal approach that provides no firm basis for refusing abortion facilities to such people of good faith. That is, if it is argued that good faith and perhaps a statement of a Christian Church are sufficient criteria on the grounds of ecumenism not to prohibit one type of behavior, then under that formality other types of behavior would also have to be admitted. If on the other hand it is said to the non-Catholic (or dissenting Catholic), "You can't use our facilities for abortion because we believe that it is a morally evil action even if you don't see it that way," we Catholics can once again be accused of having introduced an ecumenical snag and of not really respecting the ethical insights of the various Protestant and Jewish communities that have strongly supported a woman's right to abor-

tion for almost any reason. Considering that most of the larger Protestant church bodies in the United States have issued some sort of statement favoring the women's right for a quality-of-life abortion, there is practically as much of an ecumenical impasse on that issue as there is on that of the formal teaching about contraception. Thus, dissent from the *Directives* on the grounds of ecumenism is not well founded unless the dissenters are prepared to admit abortion and other actions that are now or may be issues of separation.

B. The grounds of emergency care.

"Medical or surgical treatment may be morally permissible in an emergency situation where a delay might involve grave risks, while the same type of treatment may be excluded in elective situations." (para. 58)

I fail to see the value of this statement as a grounds for dissent because the dissent from the *Directives* is principally concerned with matters related to human sexuality and generation. Aside from a last-minute craniotomy, aren't these other matters elective? It may be more convenient to perform a tubal ligation at the time of a caesarian, but it is still elective; thus the *Catholic Hospital Directives* do not deprive a person of any medically necessary care. Rather they protect the patient from the vagaries of what is socially acceptable elective medical practice, not a bad idea considering the history of acceptability among the German medical profession in the 1930's and the now



well known, pro-abortion-via-a-new-ethic editorial in *California Medicine*.<sup>8</sup>

C. Non-infallible because concrete.

In paragraph 63 of the *Report*, potential decision makers are told that they may "licitly act contrary to the concrete (and hence non-infallible) ethical directives" on four conditions. (Emphasis mine.) According to this statement, any ethical directive is non-infallible *simply because it is concrete*. Earlier, (para. 44) the *Report* had stated the urgency of "a general, but clear and firm policy of exclusion of abortion on the part of Catholic health institutions." However, such a policy can be criticized not only as being unecumenical, but such critics could also point out that the Catholic dissenters have themselves stated that any ban on abortion must be non-infallible simply because it is a very concrete directive.

Note well what is happening. Dissent is theoretically based on the fact that *Humanae Vitae* was not promulgated in a *de fide* form; but then the dissenters go further and deny that *any* concrete directive can be infallible. Thus, there can be no universal concrete norms. Therefore, should Pope or Council at some time declare against abortion, or contraception or some other moral matter in a *de fide* form, our dissenters have already set the stage to dissent from *that*. Let us be aware of the full implications of the parenthetical phrasing, and let at least one voice be counted against such a universal prohibition of universal moral norms.

D. The four conditions necessary for non-compliance with the *Directives* (para. 63)

1. "Good conscience after careful reflection." No one is going to argue with the necessity of there being a good conscience on the part of one who would dissent from the teaching of the Church. At the same time, everyone will admit that this is something that only God can judge. Of itself, it offers no help in naming directives for the Catholic hospital. For good conscience is assumed on the part of those who would practice abortion and euthanasia as well as those who would practice surgical sterilization, etc. Considering the appeal of Eichmanns and the Calleys of history to the goodness of their consciences, the fact of "good conscience" provides no assurance that grave evil will not be done.

2. Openmindedness. The second condition for non-compliance with the *Directives* is that the dissenting parties must have paid "respectful and openminded attention to the authoritative teaching of the hierarchy as well as other sources of moral wisdom in the light of the Gospel." The same comments that applied to the condition of good conscience also apply here: only God can judge such open-mindedness; if it is claimed, it cannot be either verified or disapproved. From a practical viewpoint it is of little help in an age of conflicting wisdoms. Should a Catholic hospital really allow or tolerate the practice of infanticide of defective babies by those who in good conscience were persuaded by the wisdom of

Dr. Watson's suggestion of a three day trial observation before a newborn child would be given legal and moral rights as a human being?

3. No undue harm to third parties. The third condition for allowing non-compliance would require that "no undue harm" be done to the "life, well-being or rights of a third party." Here at least the criteria seems to be more tangible, something objective as contrasted with the inherent subjectivism of the previous conditions. However, closer analysis reveals that the terminology of no "undue" harm offers little help in clarifying the grounds for dissent. The question is immediately raised, "Who is to judge whether a certain physical action is 'undue' harm?" What if a member of a hospital psychiatric clinic wanted to practice "therapeutic coitus" with a patient and had his or her spouses consent? And does not the whole abortion debate center around whether it is "undue harm" to the unborn child? Suppose that a Catholic woman and her Jewish doctor want to have an abortion performed and that they have a Protestant theologian's counsel for that abortion? Faced with the CTSA Report's emphasis on religious liberty, the fallibility of all moral directives and dissent, one wonders how a Catholic hospital could long maintain a non-abortion policy. What judge, given the CTSA Report as reliable interpretation of Catholic doctrine, could refrain from issuing a court order compelling the hospital to allow abortions just as they have done with regard to sterilization? And is this not es-

pecially true in the light of the Supreme Court decision that no undue harm can be done to a third person in the first six months because the baby is not defined as a person entitled to legal protection? Part I of the CTSA Commission Report needs to be re-read in the light of the Supreme Court decision on abortion. Eleven and a half of that section's thirteen paragraphs provide a ready made case for anyone who wanted to force Catholic hospitals to be no different from any other hospital. Certainly a proviso against "undue harm" to third parties speaks well for the intentions of the framers of the Report; my problem with it is that it seems to do little at the practical level to carry out that good intention. Rather, the debate that is immediately raised by such terminology helps to establish the necessity of the concreteness of the *Directives*.

4. The avoidance of scandal. The last criteria for dissent is that scandal be avoided. "This last condition means that precautions must be taken to prevent this exception from causing more harm than good..." I submit that with the present state of both informal and formal communications networks, there is no way that interested people are not going to know what is going on in the Catholic hospital. Furthermore there will not be "exceptions" but only "first cases." Allow one contraceptive sterilization, artificial insemination, etc. and on what grounds do you refuse another in these days of court orders?

In an age where good conscience and the wisdoms of our day are

used to justify anything and everything, when there is widespread disagreement about whether killing an unborn child is an "undue harm", the first three conditions offer no significant material barrier to almost any imaginable physical actuation, and, as we have just seen, there is no way in which the fourth condition can be fulfilled. If the question were one of simply avoiding personal culpability while acting contrary to God's order of creation, then the four conditions would be helpful as applied to various actions taking place in hospitals and clinics in no way associated with the Catholic church. However, the legitimate teaching authority of the Church is called upon to teach what is right and wrong, rather than the grounds for non-culpability. Where it is practically possible for this teaching authority to prevent certain objective wrongs from being done, it is obliged to do so. Thus, the bishops are under a moral obligation to direct Catholic hospitals not to allow certain actions to be performed regardless of the subjective state or conscience of those who would perform them. The conditions that the Report offers for non-compliance may serve well to insure moral non-culpability for that action done elsewhere, but they do not provide any sufficient grounds for the Catholic hospital to allow such non-compliance within its jurisdiction.

## II. A Limited Critique of the Bases for Dissent

As mentioned previously, the Report was a predictable document

because it is quite reasonable for those who dissent from the doctrine of *Humanae Vitae* to spell out their consequent dissent from the *Directives* which seek to put *Humanae Vitae* into practice in Catholic hospitals. Though I think the dissenters have erred in both cases, it is to their credit that they have explicitly stated "beyond the four conditions mentioned here is an 'obvious theoretical limit to legitimate dissent', namely 'the truth itself as expressed in the reasons for the dissent from particular teaching.'" (para. 6). Not all statements of dissent have admitted this limitation. Thus, even if the four conditions had been sufficient for justifying non-compliance with the *Directives*, such non-compliance would still be illegitimate if the reasons given for dissent from *Humanae Vitae* were seen to be insufficient, inadequate, or lacking in the truth. In this attempt to show the invalidity of the reasons given for dissent, I shall follow somewhat of an historical approach beginning with the Majority Report of the Papal Birth Control Commission and concluding with the present stage of arguments.

### A. A Theory of Partial Acts.

The Majority Report took the position that individual acts of coitus within marriage are only partial acts. The contraceptive acts were seen to be justified by reference to the non-contraceptive acts. "This is the case for matrimonial acts which are composed of several fertile and (contraceptively) infertile acts; they constitute one totality because they are referred to

one deliberate choice."<sup>9</sup>

Despite the prestige of its authors, this line of reason has failed to win much support. It has not proved to be intellectually convincing, probably because of the ease with which it can be criticized.

1. If the individual sex act is an incomplete act whose morality is taken from the whole, the *individual* sex act becomes morally insignificant. If that is so, it is difficult to account for the concern that men of all ages — both Christian and non-Christian — have had about the morality of individual acts of sexual intercourse. Again, if the morality of individual sex acts is to be evaluated only in terms of the overall marriage and not in themselves then, of course, nothing serious can be said against individual acts of anal or oral intercourse, or, for that matter, against individual acts of intercourse with other persons if this was done with the marriage partner's consent. The majority position paper attempted to respond to these criticisms raised by the minority position, but it offered no logical and consistent reason for its rejection of oral or anal intercourse. When it stated that "in these acts there is preserved neither the dignity of love nor the dignity of the spouse as human persons created according to the image of God",<sup>10</sup> the position of Fuchs et al was simply not answering the question but rather stating the faith or opinions of its authors. It did not teach us *why* such actions are contrary to the dignity of man; nor did it teach us why these acts *contra dignitatem* were not morally in-

significant and why they should not be seen simply as partial acts whose morality is taken from the overall totality of sexual acts in that marriage. Any theory which seeks to justify marital contraception or sterilization in terms of the totality of the marriage simply has to come to grips with the objection based on these acts of non-vaginal intercourse. If it condemns them as perverse, it has to explain why (and why they are not just "partial"); if it allows them, then in all honesty the proponents of such a theory should make it clear to their readers or followers that their permission of contraception also includes permission of these other forms of intercourse.

2. Secondly, operating within a Catholic context, it becomes necessary to explain how one's theory of permitting contraception accords with the doctrine of Vatican II that "the moral aspect of any procedure (of birth regulation) does not depend solely on sincere intentions or on an evaluation of motives. It must be determined by objective standards. These, based on the nature of the human person and his acts, preserve the full sense of mutual self-giving and human procreation in the context of true love. Such a goal cannot be achieved unless the virtue of conjugal chastity is sincerely practiced."<sup>11</sup> The majority paper attempted to reconcile its position with this statement and arrived at a mixture of subjectivism and efficiency which I have analyzed elsewhere.<sup>12</sup> Reviewing my analysis of the majority position, Robert Dailey, S.J. noted



that it "shows the weaknesses in the criteria proposed by the majority report of the papal commission — weaknesses which even the most sympathetic supporters of that opinion have puzzled over."<sup>13</sup>

There have been many references to the Majority Report by those who have favored dissent; however, in almost every instance, these references have been to the Report as to an "authority" rather than to the reasons given. I submit that this is an excellent indication that the dissenters themselves have, in all honesty, failed to be convinced by the reasoning that was supposed to convince the Pope.

#### B. A Theory of Personal Judgment.

When the Minority Report raised its objection that to admit contraception was to grant liceity to anal and oral intercourse, it was not kindly received. The authors of those objections seemed to be regarded by the vocal Catholic world at the time as being traditionalists out of touch with reality.

No such label can be applied to revisionist<sup>14</sup> theologian Michael Valenti. According to this theory, what makes man in the image and likeness of God is his rationality.<sup>15</sup> Using his reason and not bound by a static concept of nature, he will come to know what is right and wrong.

For Valenti, "sex is personal. Consequently its morality must be subject to the highly personal judgment of the individual...Subject to reason, to an understanding of the consequences of actions, and to a commitment to responsibility;

and performed in harmony with the purposes of human life, any sexual act takes its morality...whether it be a moral evaluation of good or evil — from individual circumstances and individual attitudes."<sup>16</sup>

Those conditions could be the subject of an extended debate, but fortunately Valenti does not leave us in a cloud of vagueness. The case of bestiality provides an interesting example. The individual who finds sexual release in bestiality has carried the masturbator model into the area of animal affection... Denied such activity, he might never progress beyond wishing for it. Permitted, he might indeed progress beyond it. But, in any case, where is the harm in it? He also notes that it seems unreasonable to make a moral distinction between allowing the use of condom and anal intercourse, coitus interruptus, masturbation, and homosexuality.<sup>18</sup> In addition, "if the use of sexuality outside the married state is to be forbidden, it must be forbidden on grounds apart from the natural law doctrine."<sup>19</sup>

Scriptural dicta might seem to offer some real impediments to such a theology. However, Professor Valenti finds no problem. They are "simply the expressions of the author's convictions as to how everyday problems of living must be resolved in accordance with the thrust of the Judaic-Christian ethical message."<sup>20</sup> Thus their prohibitions against fornication, adultery, sodomy — in all its senses, and bestiality do not reflect the divine order of creation. Presumably this would also apply to

the teaching of Jesus as well.

The theory of Valenti has received scant attention from his fellow revisionists perhaps because of the truly radical approach he has developed. Such relative silence would seem to suggest that they think he has erred. However, if he is in error, it is on one of two points: either his initial premises are wrong or he has erred in his logic in drawing out his conclusions. In my estimation, he has correctly spelled out his conclusions, and thus the error lies at the heart of the strongest position of dissent: the acceptance of the liceity of contraception.

A third approach has been developed by such men as Peter Chirico, S.S., Charles Robert, Peter Knauer, S.J., and Bruno Schuller, S.J. in the context of moral conflict. Richard McCormick has summarized some key elements of their thought.<sup>21</sup> While agreeing with their conclusions in favor of rejecting the key doctrine of *Humanae Vitae*<sup>22</sup> he is not entirely happy with their reasoning.<sup>23</sup> This approach grants that contraception is a physical evil but asks "when and how does physical evil become moral evil?"<sup>24</sup> The answer, "when it occurs without proportionate cause" of course raises the question of proportionality and the problem of "proportionate in whose mind?" The authors are not unaware of the dangers of a total relativism, nor do they confine their approach only to contraception and sterilization; abortion and other forms of killing are also very much a part of the discussion.

Basically, this approach centers on the conflict of values and denies the validity of any universal rules of behavior, e.g., "never engage in marital contraception or contraceptive sterilization", "never directly kill an innocent person." Despite disclaimers,<sup>25</sup> it is very difficult to see the difference between this and a situation ethic, one of whose basic rules is "never say never."

In order to try to prevent this approach from becoming a de facto situation ethic or ethic of intentionalism it is stressed that there must be a proportionate or commensurate reason for causing the physical evil. "For Knauer, a reason is commensurate if the manner of the present achievement of a value will not undermine but support the value in the long run and in the whole picture. This is a sound description of proportionality. But who can confidently make such a judgment? An individual? Hardly."<sup>26</sup> There is not only a conflict of values involved in this question; there is also a conflict of interest. Under the influences of various factors that incline them towards contraception and unlimited coitus, what individuals or couples can say that their practice of contraception or sterilization is going to do more to further respect for sex, marriage, their own relationship, and life itself, than the practice of periodic continence? McCormick notes that this problem shows the need for a larger perspective, that of "scientific moral theology and the desirability of a magisterium."<sup>27</sup>

No one can doubt the appeal of

this approach. It avoids the pitfalls of the partial act theory and at first glance it appears to avoid the radical individualism of the personal judgment theory; at least the language is much more couched and there is a recognition of a preferred way or meant-to-be. A further appeal for many Catholic theologians is that this approach allows them to say that *Humanae Vitae* was right in providing a theoretical ideal but its error was in making the ideal into a norm or rule.

Certainly this notion of an ideal but not a universally applicable norm, a value that may or must be ceded in the face of conflict with other values has great appeal for the priest who counsels a couple who find themselves having difficulty in living up to the challenging demand of *Humanae Vitae*. He can give the appearance of being not really opposed to the Pope and *Humanae Vitae*, of being theologically up-to-date as he quotes such people as Crotty and Knauer, and of having sympathy for the couple. Because of the stature of the theologians who have adopted this approach and its inherent pastoral appeal, I think that this approach has probably been used by the majority of priests who have abandoned the position actually taken by *Humanae Vitae*.

However, the value of an idea in moral theology is not its appeal based upon its ability to make counseling more comfortable, and this approach has some very serious difficulties.

1. First of all, it might be worthwhile to note that this approach is

not a valid interpretation of *Humanae Vitae*. Pope Paul presented it as follows:

"Now, some may ask: in the present case, is it not reasonable in many circumstances to have recourse to artificial birth control if, thereby, we secure the harmony and peace of the family, and better conditions for the education of the children already born? To this question it is necessary to reply with clarity, the Church is the first to praise and recommend the intervention of intelligence in a function which so closely associates the rational creature with his Creator; but she affirms that this may be done with respect for the order established by God."<sup>28</sup> The Pope then spells out why the use of the infertile period is licit under some circumstances while the use of contraception is not.

2. A second criticism stems directly from the expression of proportionalism stated earlier by Knauer and McCormick: "A reason (for allowing the physical evil of contraception) is commensurate if the manner of the present achievement of a value will not undermine but support the value in the long run and in the whole picture."<sup>29</sup>

How is one to make such a determination of the overall consequences? Prior to the actual consequences, one can only prognosticate. However, since this sort of theorizing has been with us in Catholic theology for some time, and since it has been with us for a longer time in Protestantism, it is now possible to describe the track record.

What sort of values would the acceptance of contraception be trying to further? I would expect no real debate that two values have been seen as being hopefully fostered by contraception: a) the value of marriage and marital happiness; b) the value of sex. Indirectly, through the reduction of the number of originally unwanted children, the acceptance of contraception might also be seen to enhance mankind's overall respect for human life.

a. While it is easy to find people who will say that their practice of contraception has made their marriage easier, I am not aware of any data that purport to show that the acceptance and practice of contraception have really helped to support the value of marriage and marital happiness "in the long run and in the whole picture." Instead, the indications are just the opposite. Between 1940 and 1967, certainly a time of great increase in the use of contraception, the divorce rates in the United States rose from 165 to 279 per 1000 marriages, an increase of 69%.<sup>30</sup> I would not suggest that the use of contraception is the sole cause of the marital unhappiness indicated by such figures, but I am suggesting that if contraception were the great aid to marital happiness and supporter of the real values of marriage, then it is certainly strange that there has been such a parallel rise of marital unhappiness and breakup concurrent with the increased use of contraceptives.

b. Furthermore, experience has shown that the acceptance of con-

traception as a means of supporting the value of sex actually undermines the value of sex in the long run and in the whole picture, at least if coitus is considered to be a marital act. Walter Lippmann pointed this out in 1929 when he noted that the logic of contraception opened the door to every kind of sex outside of marriage, to companionate marriages, etc.<sup>31</sup> We have already seen Michael Valenti argue for contraception and point out that its logic cannot say no to any imaginable form of voluntary sexual actuation if the persons involved think it will be helpful. The findings of McCready and Greeley cited in the opening section of this article indicate that a significant majority of the under-30 age group has lifted the ban on pre-marital sex for themselves. This is the generation that has been taught to dissent from the official doctrine on contraception. Their attitudes about sex in general support the view that acceptance of contraception in an effort to promote the values of sex has the reverse effect and leads to an overall lowering of sexual values.

c. In a related area, the value of life itself has been cheapened by the practice of contraception. It is especially troubling to see the growth in numbers of Catholics who accept abortion consequent upon the growth in the numbers who accepted contraception.<sup>32</sup> All of this should hardly surprise us. St. Thomas pointed out over 700 years ago that action proceeds from virtue and that the moral virtues are inter-connected.<sup>33</sup>



Of course, the proponents of dissent via proportionalism can respond that the time element and the context I have described are really not "in the long run and in the whole picture." I have interpreted this reason for dissent to be speaking of a relatively short (in the history of man) time period, especially in today's mass and rapid communications when the consequences of ideas show up much more quickly than in previous eras. If the proponents of dissent are talking in terms of a century, then it seems to me that they are not providing a reason that can be analyzed but are rather asking for an act of faith, and if we are dealing with contrary acts of faith, I am not aware of a Catholic ecclesiology that could seriously hold for the act of faith in the proponents of dissent in the face of the teaching of the magisterium.

I have also evaluated the consequences of the acceptance of contraception from the point of view of the Catholic tradition which sees non-marital sex, divorce and remarriage, and abortion as disvalues.

Within these contexts, I think that the argument for proportionality fails to be intellectually satisfying on the very grounds quoted earlier from Knauer.

3. A third criticism of the approaches of proportionalism is that they tend to treat the sexual act as *only* a physical act and contraception as *only* a physical evil that becomes a moral evil when done without proportionate reason. However, life is not that simple. The marriage act is a sacred act, a

"sacramental" one. It is meant to symbolize the marriage union and to renew the marriage covenant. Because it is the specific *marriage* act, the words of Christ are validly applied, "What God has united, man must not divide" (Mark 10:9). The whole meaning of contraception is to take apart the unitive and procreative aspects of marital coitus that God has mysteriously joined together. (It is something entirely different to respect the order of creation and to make use of the times when the Author of nature has allowed the unitive and procreative aspects to be separated.)

4. A fourth and lesser reason for faulting the argument from proportionality in this case as a ground for dissent either from *Humanae Vitae* or the Hospital Directives is the evaluation that Father McCormick made of this line of reasoning. When he concluded to the need of "a scientific moral theology and the desirability of a magisterium" (emphasis mine) in order to have a larger perspective and to avoid a radical situation ethic, he certainly offered no reason for dissent; far from that, he in effect offered more support for the acceptance of *Humanae Vitae* and its practical conclusions in hospitals, though that was certainly not his intent.

In all three of these approaches there has been the capital omission of what the formally stated doctrine of the magisterium actually is. Neither Pius XI or Paul VI spoke in terms of simply the physical structure of the sexual act.

Note the key statement of *Casti Connubii*: "Any use whatever of marriage, in the exercise of which the act by human effort is deprived of its natural power of procreating life..." and that of *Humanae Vitae*: "...each and every marriage act (quilibet matrimonii usus) must remain open to the transmission of life." That phrasing is significantly different from "every act of sexual intercourse."

Certainly they had reference to nature, but not simply in the physical sense. The formal documents limit the condemnation of contraception as sinful to those acts which are truly marital. Thus the papal teaching seems to be that marital contraception is a sin against the nature of marriage. (Of course, it can be argued that if the question about non-marital relations were really pressed, the Popes might have responded in a similar manner. I limit myself to the de facto stated doctrine.)

Thus the formal papal doctrine teaches us about the conditions for valid *marital* intercourse. It does not treat of sex in a purely physical way but as an expression of the personal and sacred commitment of marriage. Then at the same time and *because* it recognizes that marriage itself is more than just whatever two people want to say it is (but rather has a divinely created objective order), it likewise teaches that the marriage act has an objective order that must be respected. It is for such reasons that I previously noted that the words of Jesus about marriage itself can be applied to the marriage act: "What

God has united, man must not divide." Such considerations are important because much of the pro-contraceptive theologizing seems to have been based on the false premise that the papal doctrine has been a statement about a physical act without regard to circumstances. (For example, see the proportionality arguments as noted above.) However, "marriage" is the great circumstance in all of Catholic sexual doctrine, and this holds true likewise with regard to contraception. Because it is a sacred act and not just a biological or romantic one, the marriage act may not be tampered with and be deprived of the elements that God has joined together.

Another erroneous assumption that underlies much of the theology of contraception is that Natural Family Planning simply does not work. The Majority Report stated that the rhythm method was very much lacking efficiency and that "only sixty per cent of women have a regular cycle." No criteria for "regular" or "rhythm" was given, thus making the statement not only non-scientific but, taken as a whole, inaccurate and misleading. On the other hand, the placement of the use of the post-ovulatory phase basal temperature method among the "most effective" methods of birth regulation by Dr. Christopher Tietze of the Population Council<sup>34</sup> leads one to think that the writers of the Majority Report were not as fully informed as they might have been. The truth of the matter is that modern Natural Family Planning provides a very efficient con-



trol of conception for those who are willing to exercise a modicum of self-control, one of the fruits of the Spirit (Galatians 5:23).

Earlier in this article, I expressed my gratitude that the framers of the dissent from the *Hospital Directives* admitted clearly that any dissent was limited by the actual truth of the reasons given for that dissent. I have tried to show that such truth is lacking and that therefore by their own admission such dissent has become illegitimate. These may seem like strong words, but are they any stronger than those used by the dissenters who have said that the Pope has erred and that his doctrine of sex is invalid?

I am much more hopeful that the theologians of dissent will be open to my criticisms in 1974 than they would have been in 1969. For one thing, I grant them good faith, even if some of them were a bit too anxious to be "with it." I know that many of them must be very concerned about the shape of Catholic thinking as reported by the recent surveys. Secondly, I have seen people, for whom it must have been difficult, announce their new acceptance of *Humanae Vitae* after their association with the popular rejection of it back in 1968. One of these was a well known marriage counselor in the Twin Cities; another was a well known priest and theologian who told a large audience that he had been wrong and Paul VI right; within the last two weeks of writing these words, I have read a paper by a religious sister and M.D. who told of her change and concluded that Paul VI

was exercising the prophetic role and receiving the usual reward. I have reason to believe that a significant factor in these conversions was the observation of the consequences of the acceptance of contraception. Three swallow don't make a spring, but these personal cases confirm other reports I have heard that attitudes are changing.<sup>35</sup>

A fourth reason for my hope that priests, theologians and laymen will be more open to my criticisms of the theology of dissent is the growing awareness that compliance with *Humanae Vitae* does not leave them in a hopeless corner with no way out. Natural Family Planning is getting its second wind and so to speak. We know what kind of breastfeeding provides a long period of natural post-partum amenorrhea and infertility; we know how to become aware of the fertile period through mucus and cervix observations; we know how to correlate these signs with the positive basal temperature indication that fertility has passed. Mr. Lawrence Kane of the Human Life Foundation recently told me of a meeting he had with some priests. When he described the present state of the art of Natural Family Planning, one of the priests spoke up. "We wouldn't have joined the dissent movement back in '68 if we knew then what you've just told us."

### III. The Role of Catholic Physicians

In the light of the absence of adequate reasons for continued dissent, it would seem that the role of the Catholic physician can be

stated both negatively and positively. Negatively, they should neither prescribe contraceptives nor perform contraceptive surgery. They should recognize the definitely possible abortifacient character of the oral contraceptives<sup>36</sup> and the overwhelming evidence that the I.U.D. is an abortifacient<sup>37</sup> and they should so inform their patients. They should take the time to relate the artificial birth control movement to the abortion movement. They might also relate it to the most recent anti-life manifestation reported to us — the Negative Population Growth movement. This organization wants to make sterilization and abortion mandatory and to deny the new born child his legal personhood until he is one year old. It is a dramatic indication of the development of the contraceptive mentality.

In a more positive vein, the Catholic doctor can and should become an expert on Natural Family Planning, breast feeding and its resultant effects in child spacing. The Catholic doctor can and should be the most logical one to encourage natural childbirth.

If the physician does not feel that he has the time to instruct his patient in Natural Family Planning, he can at least refer couples to organizations which will be glad to help. One such group is the Couple to Couple League which my wife and I started with the invaluable assistance of Dr. Ronald Prem, Professor of Obstetrics and Gynecology at the University of Minnesota.<sup>38</sup>

### IV. Conclusion

The theology of dissent has not proven to be intellectually satisfying or convincing and the consequences of contraception are leading former dissenters to accept the traditional doctrine re-affirmed by Paul VI. Such re-thinking has also been stimulated by the overall condition of crisis and decline that has marked Catholic life in the last decade, particularly in the last five years during which the dissenters have been a majority of laity and have also held most of the positions of influence in the American Catholic Church. I submit that such a state of decline would be most difficult to understand if this significant majority were really acting according to the Spirit, but that it is readily understandable if they are in fact acting contrary to the Spirit. Is it not simply a spiritual impossibility to have authentic renewal in the Church if a majority of Catholics are living in "objective" sin and calling it virtue — even if they may escape culpability by reason of ignorance and other factors?

In back of this massive acceptance and practice of contraception has been the premise that this was the only practical way out of a dilemma posed by a combination of sexual urges and the desire for limited family size. Advances in Natural Family Planning have shown that the Author of Nature has provided a way out — one that also develops the same virtues or strengths that are necessary for remaining faithful to the Christian marriage commitment.

The year 1974 has been designated as "population year." It begins the second five year period since *Humanae Vitae*. I have suggested that the simultaneity of dissent and decline during the first five years post-*Humanae Vitae* has not been just coincidental, but that the former has been a significant causal factor in the latter. I submit that the time has come for the theologians and practitioners of dissent to re-direct their considerable energies into support of the sexual tradition of the Church. The next five years can be either a period of restoration and authentic renewal or they can round out what the future will call a decade of decadence.

Catholic physicians can do their patients a great favor by helping them to live within the Church's marital doctrine which allows Natural Family Planning. By doing so they may likewise help to restore health in the Church in our day.

Mr. Kippley has published in Theological Studies, America and the Journal of Obstetrical and Gynecological Nursing. He is the author of the book "Christ, Covenant and Contraception", published by Alba House. He and his wife are active members of the Couple to Couple League in Cincinnati. His wife Sheila is the author of "Breastfeeding and Natural Child Spacing: The Ecology of Natural Mothering" which will be published this spring.

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37. In an unpublished address, Dr. Tom Hilgers told his audience that his review of over 400 articles in the medical literature on the operation of the IUD revealed that the evidence was overwhelming that it acted as an abortifacient. "The IUCD — How Does It Work?" Address to the Marriage and Family Life Workshop, St. John's University, Collegeville, Minnesota, June 8, 1972.

38. Interested parties may write the Couple to Couple League, P.O. Box 11084, Cincinnati, Ohio, 45211, for further information.